

# Universities of Wisconsin

## Office of Compliance & Risk Management:

### Guidance for Institutional Ethics Committees

The Office of Compliance and Risk Management (OCRM) provides guidance and support to institutions so they can successfully perform various activities and fulfill compliance obligations. This document was created for institutions as a reminder of the requirements of § UWS 8.035 and to provide guidance and best practices surrounding Institutional Ethics Committees. Except as required by policy or law, any guidance or best practice offered in this document is optional and should not be considered a requirement in fulfilling compliance obligations.

#### Document Key:

- ❖ Requirement
- ❑ Guidance, Information on Best Practices, etc.

#### **UWS 8.035 Institutional Ethics Committee**

- ❖ Per Wis. Admin. Code § **UWS 8.035**, each Universities of Wisconsin institution is required to establish and maintain an institutional ethics committee.
- ❖ Each institution shall establish a committee, or designate an existing committee, whose function shall be to provide to any member of the unclassified staff consultation and advice on the application of this chapter.
- ❖ Committee deliberations and actions upon requests for consultation or advice shall be in meetings not open to the public.
- ❖ Records obtained in connection with requests for consultation or advice shall be considered confidential university information. However, summaries of advice provided by institutional ethics committees, which do not disclose the identities of persons requesting such advice, shall be made public in an annual report.

#### **Committee Meetings and Purpose**

- ❖ The role of the committee is to respond to inquiries from staff and faculty and provide consultation and advice regarding **Chapter UWS 8**.
- ❑ While providing advice and guidance, the committee should direct staff and faculty to appropriate (established) guidance, procedures, and policies.
- ❑ Ethical areas that may generate questions include but are not limited to: acceptance of items of value, use of public position, use of university resources, outside activity (conflicts of interest, time, and or commitment), using or disclosing confidential information, awarding contracts, partiality/nepotism, etc.).
- ❑ The functions of the institutional ethics committee can be executed by either a standalone committee or a committee (or subcommittee of a larger committee) that executes multiple functions beyond those listed in § **UWS 8.035**. NOTE: Each function may have different codes, statutes, and policies to be followed carefully. The provisions of § **UWS 8.035** (including the confidentiality and public records-related provisions) apply to a committee **only** when it is executing its functions under § **UWS 8.035**.
- ❑ Determine the frequency of committee meetings. It is recommended that committees meet at least once a semester at minimum.
- ❑ Establish standing meeting dates and times.
- ❑ Establish and maintain a meeting agenda to cover key topics, issues, policies.

- ❑ Consult with constituents as needed to ensure compliance with Chapter UWS 8 (i.e., UW Office of General Counsel, UW Office of Compliance & Risk Management).
- ❑ Review existing institutional policies and practices related to Chapter UWS 8 to assess compliance and update as needed.
- ❖ The only meetings that should be in closed session to ensure confidentiality are those “[c]ommittee deliberations and actions upon requests for consultation or advice.” Further, in order for a closed session to be lawful, it must meet one of the Open Meetings Law exceptions under **Wis. Stat. § 19.85(1)** (the likely exception to apply is **(f)**). Therefore, when **not** deliberating on (or providing) advice regarding a personal request about the application of the ethics code, the committee should not be in closed session. NOTE: Meeting notices and motions to go into closed session should properly cite the exception above.
- ❖ “Records obtained in connection with requests for consultation or advice” by committee are considered confidential university information. All other records cannot be considered confidential and are likely subject to public records requests.

#### **Code of Ethics and Standards of Conduct**

- ❑ Each committee member should review appropriate policies prior to taking any action or giving advice.
- ❖ Unclassified employees (limited appointees who are not state public officials, faculty, and academic staff) follow the Unclassified Staff Code of Ethics, Wis. Admin. Code **Chapter UWS 8**.
- ❖ The Chancellor and Vice Chancellors, as “state public officials,” follow the Code of Ethics for Public Officials, **Wis. Stat. § 19.45**.
- ❖ University Staff follow the University Staff Code of Ethics in **Regent Policy Document 20-22**.

#### **Designation of Committee Members**

- ❑ This is a consultative role and not a decision-maker role.
- ❑ Designate a permanent appointment for a senior staff member from your ethics and/or compliance division who will serve as the convener of the committee and ensure the report is submitted annually.
- ❑ The committee members should be representatives of your institution's governance structure. Allow each governance group to self-select their representative.
- ❑ Establish rotating appointment terms to allow for full representation and different perspectives (i.e., one-year term).

- ❑ An example committee membership could include: Compliance Officer (convener), and one representative from human resources, institutional research and or sponsored programs, academic affairs, and each governance group/senate (as appropriate). The committee should be approachable for unclassified staff to request consultation and advice. Provided that requests for consultation/advice have been received, it is advised that senior administrators be excluded from membership, as they may be in a role where they are required to serve on a complaint/grievance committee, etc.

### Annual Reports

- ❑ To meet the requirements of Chapter UWS 8, the chair of the committee prepares an annual public report. A suggested annual deadline would be June 30. NOTE: Committees should prepare a report even if the committee wasn't approached and provided no consultation or advice to any faculty, staff, and or administration.
- ❖ The report should include summaries of advice provided by the committee and will not identify those who requested the advice.
- ❑ The chair should keep track of any and all requests for consultations and advice given. NOTE: Care should be taken to leave out any detail that might reasonably allow someone to infer the identity of the advice requester.
- ❑ The report should track the progress of the committee's meetings and activities for the closing academic year.
- ❑ The report should include the committee's membership.
- ❖ The annual report should be made publicly available.
- ❑ NOTE: It should be produced every year, and available immediately upon request. There is no legal requirement to disseminate the report, and the committee should consider that the more broadly the report is distributed the more risk there is for consequences from identifying details being left in the summaries.

### Ethical Concerns and Complaints

- ❑ Any individual who served on the institutional ethics committee as part of advice or consultation given to a requester on a matter, has a duty of confidentiality and a conflict that precludes them from serving on any complaint/grievance hearing committee related to that matter.
- ❑ If an inquiry or issue is raised with the institutional ethics committee that has the potential to lead to allegations of misconduct and/or liability, the committee chair should contact the Office of General Counsel (OGC).
- ❑ Concerns can be reported through the **UW Integrity Hotline**. Employees have the choice to file anonymously or non-anonymously.
- ❑ If the employee isn't comfortable speaking with the immediate supervisor, they can consider contacting: the department chair or dean of the school; for faculty-specific concerns, the appropriate dean or **Provost for Academic Affairs; Human Resources**; for any alleged sexual misconduct including dating, domestic abuse, and stalking, the institution's **Title IX Coordinator**; for immediate help, campus or local law enforcement or dial 911; UW's Integrity Hotline may be used.
- ❑ Any person may file a written complaint charging an ethics violation under UWS 8.
- ❑ Complaints against faculty and academic staff proceed under the respective faculty and academic staff disciplinary rules.
- ❑ Complaints against limited appointees are addressed by the appointing authority.